

CHANGES TO CONSTRUCTION GENERAL PERMIT

EMERGENCY CONSTRUCTION ACTIVITIES

Order Section B, add a new #8 (page 15-16); and Attachment A section B, add a new #6 (page 4).

In the case of a public emergency that requires immediate construction activities, a discharger shall submit a brief description of the emergency construction activity within five days of the onset of construction, and then shall submit all PRDs within thirty days.

APPROVED SIGNATORY

Section IV.I.1.a, page 23

- iv. For the military: Any military officer who has been designated.
- v. For a public university: An authorized university official.

ROUTINE MAINTENANCE

Finding #24 of Order and Page 9 of Fact Sheet

Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility. ~~Routine maintenance only applies to road shoulder work, dirt or gravel road re grading, or ditch clean outs. For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation.~~

Attachment A.2

Projects and Activities Not Defined As Construction Activity

1. LUP construction activity does not include routine maintenance projects to maintain original line and grade, hydraulic capacity, or original purpose of the facility. Routine Maintenance projects are projects associated with operations and maintenance activities that are conducted on existing lines and facilities and within existing right-of-way, easements, franchise agreements or other legally binding agreements of the discharger. Routine maintenance projects include, but are not limited to the projects that are conducted to:

- ~~Maintain the original purpose of the facility, or hydraulic capacity.~~
- ~~Update existing lines³ and facilities to comply with applicable codes, standards and regulations regardless if such projects result in increased capacity.~~
- ~~Repairing leaks.~~

~~Routine maintenance does not include construction of new⁴ lines or facilities resulting from compliance with applicable codes, standards and regulations.~~

~~Routine maintenance projects do not include those areas of maintenance projects that are outside of an existing right of way, franchise, easements, or agreements. When a project must acquire new areas, those areas may be subject to this General Permit based on the area of disturbed land outside the original right of way, easement or agreement.~~

2. LUP construction activity does not include field activities associated with the planning and design of a project (e.g., activities associated with route selection).
3. Tie-ins conducted immediately adjacent to "energized" or "pressurized" facilities by the discharger are not considered small construction activities where all other LUP construction activities associated with the tie-in are covered by a NOI and SWPPP of a third party or municipal agency.

EFFECTIVE DATE OF PERMIT

Entire permit: [Replace all references of "100 days" with "July 1, 2010"]

Section II.B.4:

4. All dischargers shall electronically file their PRDs and submit payment of annual fees according to the following schedule. This permit is effective on July 1, 2010.

a. ~~New dischargers requiring permit coverage on or after the adoption date [insert effective date of permit]~~ **Dischargers Obtaining Coverage On or After July 1, 2010:** All dischargers requiring coverage on or after July 1, 2010, shall electronically file their PRDs no later than 14 days prior to the commencement of construction activities, and mail the appropriate annual fee no later than seven days prior to the commencement of construction activities. Permit coverage shall not commence until the PRDs are accepted and the annual fee is received by the State Water Board.

b. **Dischargers Covered Under 99-08-DWQ:** Existing dischargers subject to State Water Board Order No. 99-08- DWQ (existing dischargers) will continue coverage under 99-08-DWQ until July 1, 2010. After July 1, 2010, all NOIs subject to State Water Board Order No. 99-08-DWQ will be terminated. Existing dischargers shall electronically file their PRDs no later than July 1, 2010, 100 days after the adoption date [insert adoption date of permit] of this General Permit. ~~After 100 days all NOIs subject to State Water Board Order No. 99-08-DWQ will be terminated.~~ If an existing discharger's the project acreage subject to the annual fee has changed, it ~~dischargers~~ shall mail a revised annual fee no less than seven days after receiving the revised annual fee notification, **or else lose permit coverage.** All existing dischargers shall be exempt from the risk determination requirements in Section VIII of this General Permit until two years after permit adoption. All existing dischargers are therefore subject to Risk Level 1 requirements regardless of their project's sediment and receiving water risks. ~~This exemption applies until [insert date 2 years after permit adoption].~~ However, a Regional Board retains the authority to require an existing discharger to comply with the Section VIII risk determination requirements.

c. ~~Dischargers with new sites scheduled to begin construction activities on or after the adoption date of this General Permit [insert adoption date of permit] but prior to [insert 14 days after effective date of permit]~~ shall electronically file their PRDs prior to commencement of construction activities or change of ownership, and mail the appropriate annual fee no later than seven days after submitting their PRDs. Permit coverage is authorized on the date the PRDs are accepted by the State Water Board pending receipt of the annual fee.

Attachment A.1

This permit is effective on July 1, 2010.

The Legally Responsible Person (LRP) for construction activities associated with linear underground/overhead project (LUP) must electronically apply for coverage under this General Permit on or after July 1, 2010. . . .

* * * *

The LRP must obtain coverage under this General Permit on or after July 1, 2010 for its LUP construction activities where the total disturbed land area is greater than 1 acre.

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Dischargers of ongoing LUPs that are currently covered under State Water Board Order No. 2003-0007 (Small LUP General Permit) shall electronically file Permit Registration Documents no later than ~~100 days after the adoption date~~ July 1, 2010 of this permit July 1, 2010. After ~~100 days~~ July 1, 2010, all NOIs subject to State Water Board Order No. 2003-0007-DWQ will be terminated. All existing dischargers shall be exempt from the risk determination requirements in Attachment A until two years after permit adoption. All existing dischargers are therefore subject to LUP Type 1 requirements regardless of their project's sediment and receiving water risks. ~~This exemption applies until~~ until ~~[insert 2 years after permit adoption]~~. However, a Regional Board retains the authority to require an existing discharger to comply with the risk determination requirements in Attachment A.

HOMELAND SECURITY

Fact Sheet Section II.D, page 12

~~Due to Homeland Security concerns and guidelines, it is important to limit public access to certain infrastructure information essential to public utility services. Additionally, Federal Energy Regulatory Commission rules limit the disclosure of certain information regarding the schedules of utility projects. It is important that certain information not be included in LUP PRDs such as transmission circuit numbers, voltages, substation names, maps showing how new facilities fit into the overall grid, GIS shape files, and schedules indicating when associated circuits will be de-energized or energized. Any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.~~

Change Sheet proposal for Section I.C, Page 6

~~LUPs contain information that may cause a security or other regulatory issue if accessed by the public. LUPs may not include certain infrastructure information essential to public utility services in the PRDs. Missing information will be provided directly to the Regional Water Boards upon request.~~

Order for Section 1.D (make new finding)

Any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.

Attachment A, Section B

~~Due to Homeland Security concerns and guidelines, and Federal Energy Regulatory Commission rules, it is important that certain information not be included in LUP PRDs such as transmission circuit numbers, voltages, substation names, maps showing how new facilities fit into the overall grid, GIS shape files, and schedules indicating when associated circuits will be de-energized or energized. This missing information shall be provided upon request by a Regional Water Board. Any information provided to the Regional Water Board shall comply with the Homeland Security Act and any other federal law that concerns security in the United States; any information that does not comply should not be submitted.~~

POST CONSTRUCTION "GRANDFATHERING"

Section XIII.A.1.

XIII. POST-CONSTRUCTION STANDARDS

A. All dischargers shall comply with the following runoff reduction requirements unless they are located within an area subject to postconstruction standards of an active Phase I or II municipal separate storm sewer system (MS4) permit that has an approved Storm Water Management Plan.

1. ~~Owners of publicly funded projects may appeal to the appropriate Regional Board for an exception to the requirements of this Section~~
XIII. This provision shall take effect three years from the adoption date of this permit, or later at the discretion of the Executive Officer of the Regional Board.

RUN-ON CAUSED BY FOREST FIRE OR OTHER NATURAL DISASTER

Order page 10. Add a new finding #57.

If run-on is caused by a forest fire or any other natural disaster, then NELs do not apply.

Order page 29, Add a new #5.

Dischargers shall not be required to comply with NELs if the site receives run-on from a forest fire or any other natural disaster.

REOPENER FOR ELG

→ Make a new finding #17 under A. General Findings and renumber thereafter.

17. The State Water Board may reopen the permit if the U.S. EPA adopts a final effluent limitation guideline for construction activities.

REGIONAL BOARD AUTHORITY TO REQUIRE RISK REEVALUATION

Finding # 37.

This General Permit grants an exception from the Risk Determination requirements for existing sites covered under Water Quality Orders No. 99-08-DWQ, and No. 2003-0007-DWQ. For certain sites, adding additional requirements may not be cost effective. Construction sites covered under Water Quality Order No. 99-08-DWQ shall obtain permit coverage at the Risk Level 1. LUPs covered under Water Quality Order No. 2003-0007-DWQ shall obtain permit coverage as a Type 1 LUP. The Regional Water Boards have the authority to require Risk Determination to be performed on sites currently covered under Water Quality Orders No. 99-08-DWQ and No. 2003-0007-DWQ where they deem it necessary. The State Water Board finds that there are two circumstances when it may be appropriate for the Regional Water Boards to require a discharger that had filed an NOI under State Water Board Order No. 99-08-DWQ to recalculate the site's risk level. These circumstances are: (1) when the discharger has a demonstrated history of noncompliance with State Water Board Order No. 99-08-DWQ or; (2) when the discharger's site poses a significant risk of causing or contributing to an exceedance of a water quality standard without the implementation of the additional Risk Level 2 or 3 requirements.

DEFINITION OF TRIBUTARY TO A SEDIMENT SENSITIVE RECEIVING WATER

Attachment A.1.5

5. ~~Tributary to Sediment Sensitive Receiving Water Body~~—A surface water is ~~“tributary to a sediment sensitive water body”~~ when it meets any of the following:

- a) ~~The surface water body is located up-gradient of and hydrologically connected to a CWA 303(d) listed water segment (i.e., for sedimentation/siltation, turbidity), or a water body designated with beneficial uses of SPAWN, MIGRATORY, and COLD~~
- b) ~~The surface water body is located within the same hydrologic sub-area as a CWA 303(d) listed water segment (i.e., for sedimentation/siltation, turbidity), or a water body designated with beneficial uses of SPAWN, MIGRATORY, and COLD~~
- c) ~~The surface water body is not one of the following: 1) ephemeral or intermittent surface water (e.g., drainages, creeks, streams, etc.); or 2) a storm drain inlet.~~

CONVENTIONAL AND NON-CONVENTIONAL POLLUTANT DEFINITIONS

As reflected on page 36-37 of Change Sheet:

Conventional Pollutants: Statutorily listed pollutants understood well by scientists. These may be in the form of organic waste, sediment, acid, bacteria, viruses, nutrients, oil and grease, or heat.

Non-Conventional Pollutant: Any pollutant not statutorily listed or which is poorly understood by the scientific community.

**STAFF'S RECOMMENDED CHANGES
THAT WERE MADE DURING THE PRESENTATION**

1. Delete all additional references to emergency construction activities as activities not covered under permit.
2. Make homeland security apply to all projects.
3. Include a list of all sediment and non-sediment TMDLs that apply to construction storm water discharges. This list will be Appendix 4.